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MANOR

OF

RENSSELAERWYCK.

BY

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The following numbers were written for the Albany Freeholder, and published originally in that paper. They are confined to an investigation of the title of the Manor of Rensselaerwyck, so called; and as the public have a deep interest in the question, and a strong desire has been manifested to have the numbers presented in pamphlet form, they are accordingly submitted for the consideration and judgment of the community.

MANOR OF RENSSELAERWYCK.

NUMBER I.

The Van Rensselaer family claim title to the Manor of Rensselaerwyck: 1st. From the Indians, or aborigines of the Country; 2d. From the States General of the Netherlands and the West India Company; 3d. From the English Government; 4th. Confirmation from our own State Government since the Revolution; 5th. From Inheritance; and, 6th. From Possession.

It is my design to investigate each of these claims in succession, and trust I shall be able to satisfy a discerning public, upon what grounds they are *claimed* to be valid. A brief historical sketch of the country in which the Manor is situate, will be necessary to a full understanding of the subject, after which I shall confine myself in this number to an examination of the pretended Indian title.

This continent was discovered in 1492, by Christopher Columbus, of Genoa, then in the service of Ferdinand and Isabella, sovereigns of Castile and Arragon. In the year 1493, after the return of Columbus from his first voyage to the New World, Ferdinand obtained a grant or bull from the pope, Alexander VI., of all countries belonging to infidels, that might be discovered west of an imaginary line, supposed to be drawn from pole to pole, a hundred leagues to the westward of the Azores. All countries to the east of this line were bestowed upon the king of Portugal. The Spaniards discovered and subdued most of the West India Islands, and Mexico and Peru upon the continent, and soon obtained an extensive dominion in South America and upon the Isthmus. Four years after the discovery of the West Indies by Columbus, John and Sebastian Cabot, Venetians, in the service of Henry VII., of England, explored our coasts, and from their discoveries, the English found their claim to North America. Their letters patent were dated in 1495. They sailed in 1497 from Bristol, discovered New Foundland, and sailed as far North as 67½ degrees. The English writers, in opposition to those of Holland, maintain that Sebastian Cabot in his return voyage sailed along the coast of New-York. The French claim that Varrazzans, who was commissioned by Francis I., in 1523, was the first discoverer of the Bay of New-York, and River Hudson, and by virtue of his discoveries, and that of Cartier, who was commissioned in 1534, laid claim to most of North America. Queen Elizabeth, in 1584, gave to Sir Walter Raleigh the disposal of all the countries between 33 and 40 degrees of north latitude. The Company's agents anchored in Roanoke Bay, and called the country Virginia, from their virgin queen. The first house erected and soil cultivated within the colonial limits of New-York, were by Bartholo-

mew Gosnold, one year before the death of Queen Elizabeth, on the most eastern of the Elizabeth Islands, now called No Mans Land. Sir Walter Raleigh's patent became vacated by his attainder. King Henry IV., of France, in 1603, gave to Des Monts all the American lands from 40 to 46 degrees of north latitude, which included this State, but which was disregarded by James I. of England, who in 1606 granted a new patent to two monopolies, denominated the North and the South Virginia Companies. The patent of the South Virginia Company was to Sir Thomas Gates and others, to whom land was given to begin a plantation, at any place on the continent, between the 34th and 41st degrees of latitude, and all the lands extending 50 miles on each side along the coast, and one hundred miles into the country, and all the islands within one hundred miles opposite their plantations were granted in fee. The North Virginia patent was granted to Thomas Herman and others, for a plantation between 38 and 45 degrees of latitude. Both patents included New-York; but as each company was to have fifty miles each way along the continent from the place of their settlements, an actual contact was precluded within one hundred miles. This lapping of the patents was the principal reason why New York was not sooner settled by the English. The first effectual settlement of North America was at Jamestown, on James River, in 1607, by the South Virginia Company. This was about two years previous to the discovery of the Hudson River. Eleven years after the discovery of our river by Hudson, no permanent colony was settled in New England ; but at length the North Virginia Company effected a settlement at Plymouth, in 1620. The patent, or charter of 1606, to the South Virginia Company, was vacated at the desire of the patentees, and in 1609 renewed by the name of "The Treasurer and Company of Adventurers and Planters of the city of London, for the first colony of Virginia." This was again enlarged by that of 1611–12. The patent of the North Virginia Company became vacated, and in November 1620 king James I. by a new patent to the Duke of Lenox and others, by the name of "The great council established at Plymouth in the county of Devon," granted them the country from the 40th to the 48th degree of north latitude, inclusively ; and in length of and within the breadth aforesaid, through the main-lands from sea to sea. This charter is the great civil basis on which all subsequent patents in the subdivision of New England were founded. It embraced this State, though then in possession of the Dutch, and conflicted with the claims of France. The States General of the Netherlands were for a long time subject to Spain, but their independence was obtained under Maurice and acknowledged by the treaty of Munster. The Dutch East India Company was established by patent by the States General in 1602, for twenty-one years. Hudson was in the employ of this company for the discovery of a northern passage to China and India, when he discovered our river. Hudson was an Englishman, and it is denied by the English that he was in the service of the East India Company when he discovered the Hudson, but that he sold his discovery to the Dutch, which was not acknowledged by the English government. Henry Hudson in 1609 sailed up the Hudson. He came as far as the present Canal Lock and Canal Basin, and his boat proceeded to Waterford and Lansingburgh. In 1614 the States General granted a patent to some merchants for the exclusive trade of the North River, who the same year built a fort on the west side near Albany, which was first commanded by Henry Christaens. Captain Argall, who was sent out by Governor Dale of Virginia, subdued this fort the same year. Albany has had the names of Fort Orange, Beaverwyck, William's Stadt, Fuyck or Hoop Neck, Albany, and New Albania. The name given by the Iriquois, or Five Nations, was Schenectadea, and by the Mohegans on the

east banks of the river, Gasehtenick. The States General made a grant of their possessions in North America, called New-Netherland, in 1621, for twenty-one years, to the Dutch West India Company. Their charter is to be found in Hazard's State Papers, 1st vol, p. 121. The Dutch West India Company issued their Charter of Liberties in 1629, under which the Patroon Killian Van Rensselaer came to this country. This important document is published in the New York Historical Society Collections, 2d series, page 370. It is said that the Patroon's agent arrived here the year following, in 1630. Killian Van Rensselaer himself arrived in 1637. In 1656, the Dutch West India Company parted with that part of their possession in New Netherland between the Delaware and North Rivers to the city of Amsterdam. The regulations of the city of Amsterdam in relation to this tract, are published in the New York Historical Society Collections, 1st vol., p. 291. The Dutch claim of New Netherland was from latitude 38 to 42 degrees, by the ocean—all adjacent islands, and northerly by the river of Canada. Their claim was founded, 1st. As subjects of the king of Spain ; 2d. By virtue of the relinquishment by Spain to the United Provinces, free and independent of all the possessions in the New World, then occupied by them, whereby New Netherland (now New York,) became the inheritance of the Dutch nation. 3d. By virtue of the discovery of Delaware and New York Bay and River, by Henry Hudson, and the first actual possession and settlement thereupon.

Walter Van Twiller, the first governor after Minuit, arrived at Fort Amsterdam, now New York, in 1629. William Kieft succeeded him in 1638. There are no books among the Dutch records in the Secretary's office relating to state matters, before Kieft's time, nor any enrolment of patents till a year after Van Twiller arrived here. Van Lambrechten, who wrote in 1618, in his history of New Netherland, published in the 2d series of New York Historical Society Collections, p. 84, admits that there is but little deserving of notice preserved in the records of the West India Company in Holland, concerning New Netherland. He states that all the documents in Holland in relation to the colony of Rensselaerwyck, were delivered to R. S. Van Rensselaer, on his return to America. Peter Stuyvesant was the last Dutch governor. He began his administration in 1647. On the 12th of May, 1664, king Charles II., of England, granted a patent to his brother, the Duke of York and Albany, (afterwards James II.,) of sundry tracts in America, including all New Netherland In this same year the English under Colonel Richard Nichols, conquered New Amsterdam. The Dutch at Fort Orange capitulated to Carteret, sent up the river by Nichols on the 24th of September. On the first of October, the whole of New Netherland became subject to the English crown. Carteret entered into a league with the Indians of the Five Nations. Nichols became deputy governor of the conquered province, under the Duke of York. Francis Lovelace succeeded Nichols in 1667. The Dutch in 1672 again took the fort of Manhattan. Colve was made governor. By the treaty of Westminister between England and the States General, Feb. 9th, 1674, the country was restored to the English, and Edmond Andross made governor, who was succeeded by Thomas Dongan on the 27th of August, 1683 ; under him the people for the first time elected representatives to a general assembly.

Albany was incorporated by Gov. Dongan in 1686. James the II., formerly the Duke of York and Albany, ascended the throne of Great Britain, in 1685—he abdicated in consequence of the revolution, and William, Prince of Orange, succeeded him in 1689. The revolution extended to America, and Leisler affecting zeal for King William, usurped the prerogatives of governor of New York. Henry Sloughter sent over

from England, superseded him in 1691. The general assembly of 1691, was the first in the province after the revolution of William and Mary. All laws made here antecedent to this session of the assembly, are disregarded both by the legislature and the courts of law. In the collection of acts of 1752, they went no farther back than 1691. Benjamin Fletcher was governor in 1692; the Earl of Bellemont in 1695; John Naffin in 1701; Lord Cornbury in 1702, and John Lord Lovelace in 1708. Queen Anne, ascended the throne of Great Britain in 1701. New York resisted the stamp act, and was one of the confederated states in the Revolution, that achieved our independence. Her constitutions of 1777 and 1821, I shall have occasion to refer to hereafter.

A summary of the claim of the Van Rensselaer family to the Manor of Rensselaerwyck is presented in the report of the Assembly by the judiciary committee, of which William F. Allen was chairman. This report, numbered document 183, is to be found in the Assembly Journals for the year 1844. As this committee affect to establish title in the Van Rensselaers, and have evidently labored hard to make it apparent, and had every facility afforded them for that purpose, I shall take their account as the Van Rensselaer side of the story, and giving them all the benefit of the report, proceed in answer.

The pretended Indian title is presented in these words, "The earliest Indian deed to Killian Van Rensselaer is dated April 8th, 1630. This describes the lands as extending from Barren Island to Smachie Island, and westward from the river two days' journey—other Indian deeds conveying parts of the Manor on both sides of the river—one conveying lands bounded north by the Cohoes Fall. The Indian deeds conveying separate parcels, extend in point of time, through various years, from 1630 to 1727, and several of them subsequent to the English conquest in 1664."

These deeds the committee say are among the archives of the Van Rensselaer family. There is no pretence that they are of record, confirmed as such by the colonial government, or attested by any formality.

According to the European foundation of property in land possessed by the Indians, discovery alone, without conquest, gave the government the right of pre-eminent domain, and the Indians had only the right of occupancy. The Indians could not dispose of these lands, and no person had a right to purchase of them without the consent of the government. The above principles were recognized by all the European governments that made discoveries upon this continent.

It appears from Smith's History, that from the earliest times in the colony, it was the custom in obtaining Indian lands, to apply to the governor in council for a license to purchase lands of the natives in his majesty's name. A deed was then privately obtained from the Indian proprietors to the king, and annexed to a second petition to the governor for a warrant to the surveyor-general to make a survey of the quantity purchased. A warrant upon the return of the surveyor was then issued to the attorney-general to prepare a draft of the patent, which being transmitted to the secretary's office was then engrossed upon parchment, and the great seal affixed to it by the governor. But even this was not deemed sufficient, and hence by the laws of the colony under the Duke of York, published in April 1664, to be found in the New York Historical Collections, vol. i., 351, "No purchase of land from the Indians shall be valid, after the first day of March, 1664, without leave first had from the governor. The sachem is to be brought before the governor, and the purchase entered upon record in the office." The constitution of this state of 1777 and of 1822, rendered contracts for lands with the Indians in this state void, unless sanctioned by the legislature. "The In-

dians had no right to sell to any other than the government of the first discoverer, nor to private citizens without the sanction of their government. (*Opinion of Chief Justice Marshall, 8th Wheaton's Reports, 543, and of Chancellor Kent, 20 Johnson's Reports, 693.*) "Sales by Indians were void, made to the whites without legislative sanction." (14 *Johnson*, 375.)

The Patroon then can have no valid Indian deed in his possession, unless under the colonial seal, and of record: none such can be found, and the committee make no pretence of the kind. But let us examine this matter a little farther in regard to the *genuineness* of these pretended Indian deeds. The committee pretend that from these deeds and a chirographic map in the possession of the Van Rensselaers, that the boundaries of the patent, north and south, were known as early as 1630. Now Vander Donk, who was sheriff of the colony, in his history of "New Netherland," published in 1655, to be found in the New York Historical Collection, 2d series, p. 127, says that the Dutch settlements were confined mainly to the borders of the river. He conjectured that the Cohoes descended 150 or 200 feet. Even Smith, who wrote a century after Vander Donk, is erroneous in some particulars of his description; he ascribes the sources of the Hudson to be in the mountainous and uninhabited country between Lakes Ontario and Champlain, and that the Hudson is navigable for batteaux from Albany to Lake George, except two portages of half a mile each.

The committee say in their report, that the Indian deeds extend in point of time through various years, from 1630 to 1727. If the Indian title was not completed before 1727, by a multiplicity of deeds, the chirographic map of 1630 was certainly descriptive of other lands than those to which the Patroon Killian Van Rensselaer had at that time acquired a title. But let us look at this matter a little more closely. At the time that Henry Hudson sailed up the river in 1609, the Mohawks occupied the western shores, from the head of navigation to the Catskill mountains, and the Mohiccans the east side of the Hudson, from a site opposite Albany down to the Tappan Sea. The Mohawks were one of the Five Nations, or Iroquois confederacy, and the enemies of those who lived on the east side of the river, whom they afterwards (before 1630) conquered. All the Manor of Rensselaerwyck was included in the Mohawk possessions. De Laet gives the name of Mackwaas to the Indians located near Fort Orange; but this was merely another name for the Mohawks. Proceeding westward, the other of the Five Nations occupied the country in this order: Oneidas, Onondagas, Cayugas, Senecas. The Dutch maintained an inviolable peace with the Five Nations, as did also their English successors in the government of the country. Then as the Mohawks were but one tribe, and there were no divisions or revolutions among them as regards the colonists at or near Albany, I would enquire why it was necessary for Killian Van Rensselaer and his successors to obtain so many Indian deeds at so many different times, from so many different sachems or chiefs? Such was not the fact, but on the contrary the West India Company, before the Patroon arrived here, obtained titles from the Indians for themselves in their own name. The West India Company, in their memorial of 29th September, 1645, declared that her ministers, as soon as the grant was obtained, exerted themselves to purchase from the natives several islands and districts, and by way of purchase became the legal proprietors of various spots along the North River. Lambrechten, who wrote his history in Holland, says in express terms, that the West India Company purchased Manhattan, (New York Island) Staten Island, Hoboken, and the tract of land on the west side of the river near Fort Orange. If after all this we add the fact, which I shall establish in my next number, that Killian Van Rensselaer was sent

here by, and as the agent, and at the expense of the West India Company, which he afterwards betrayed, I think it will be evident that *he* acquired no title from the Indians. In my next number I shall treat of the pretended Holland title upon which the Van Rensselaer's fall back, and drive them from *that* entrenchment.

NUMBER II.

Having in a previous number endeavored to show that the Van Rensselaers have no valid title to the Manor of Rensselaerwyck derived from the Indians, I shall now proceed to examine the title they profess to have derived from the Dutch government of the States General of the Netherlands, and the Dutch West India Company; and here again I shall take the account of this title as given by the judiciary committee in their report to the Assembly of 1844. It is as follows:

1st. A printed paper with an English translation made by the Dutch West India Company, dated 1630, granting certain privileges and liberties to the Manor of Rensselaerwyck, which paper the committee say is now in the possession of the Historical Society of New York.

2d. A confirmation of the rights of the Patroon and New Netherland, signed by a notary public, dated 24th November, 1633.

3d. The States General Venia Testadi, to Killian Van Rensselaer, dated 5th January, 1641.

4th. The determination of the West India Company in his favor concerning the Fuyck, dated 2d April, 1674, under the national seal, and

5th. Recommendation of the States General to King Charles II., in behalf of the Colony of Rensselaerwyck under the seal of the States General, dated 9th June, 1674.

I have used the words of the committee, and all that they say in relation to the Dutch title. The reader will perceive how extremely vague and indefinite and meagre is this account, and how difficult to be understood; yet as it is calculated to convey many erroneous impressions, and is more full and explicit than any account ever given before or since, it is entitled to our serious consideration.

The printed paper spoken of, I have searched for in vain amongst the publications of the Historical Society, and not having seen it or a copy, of course cannot speak with certainty as to its contents, but still I think that I have ascertained its true meaning and purport. In 1629 the West India Company issued their charter of privileges for the benefit of *all* colonists in New Netherland. By one of the provisions of this charter the colonists were to extinguish the Indian title to all lands they might claim under the charter. As the Company had previous to this time acquired by purchase the Indian title to the lands in the neighborhood of Fort Orange, the colony sent there was on behalf and at the expense of the Company, and principally for trading purposes. Killian Van Rensselaer came over in 1637 as agent of the Company, he being at the time one of the directors. From him the colony took its name. The paper alluded to was certainly not addressed to the *manor* of Rensselaerwyck, for the term manor was not applied until after the English Conquest in 1664. Vander Donk and all the Dutch writers speak of the settlement as the *colony* and not the *manor* of Rensselaerwyck. It was reserved for the successors of Killian Van Rensselaer to claim the inheritance of the colonists by virtue of a name, and the honorable the judiciary committee adduce *this* as evidence of *title*. Killian Van Rensselaer made no claim in his own right to the lands of the Company, until several years after its first failure in 1634, and then, only as a patroon, under the general charter of privileges of 1629. It was certainly right and proper for the Company

to take its own colony under its protection, and hence the paper spoken of was published in *derogation* of the claim that any *individual* might make in opposition to the rights of the colonists. In this sense the paper proves much more than was intended by the committee.

In proof of my statements in regard to the colony, I refer to the Journal of De Vries, formerly one of the directors of the West India Company, of a journey he made up the Hudson in 1640. This journal was not published until within a few years past, and makes some very important disclosures. A translation is to be found in the 2d Series of the New York Historical Society Collections, page 250. I make the following extracts: "About evening we anchored at the Island of Brandt Pyten, below which the Fort Orange is situated, of which the owners are the patroons Goodwyn, Rensselaer, Jan De Laet and one Bloemart, and they had besides three other farms which they had very much embellished *at the cost of the West India Company*, the cattle having been sent with great expense by the Company, and these persons *being Commissioners in the New Netherland*, had well known how to turn things to their own advantage, so that the Company had nothing but the naked fort and the Commissioners the farms in its vicinity, and every farmer was a koopman. p. 268. He [referring to his partner, F. Vries,] was, it seems, of opinion that the colonies were to be erected without people and means, thinking that such was the case in regard to Godyn, Gilliane, Van Rensselaer, Bloemart and Jan De Laet. But it was done by them at the cost of the Company, they having sent their farmers and cattle. They being at that time Directors of the West India Company and Commissioners of the New Netherlands, they saved themselves afterwards by some sinister merchant's trick, and their Company at that time having obtained the fair prize, Piet Heyn, did not think of *their lost Colony at Fort Orange*, and it was indifferent to the directors if any farm was erected there,—but those fellows despised Van Rensselaer (who was used to refine pearls and diamonds) and proceeded so far that they turned out their associates. When Michael Pann got to know that the lands at Fort Orange were appropriated for themselves, he went immediately and had that part before the Fort where the Indians cross the river to bring their beavers, put down in his own name and called it Panovia, which afterwards when it was known by the Company, occasioned much quarreling and jealousy, and prevented the colonies prospering as they would have done." p 262.

It now becomes important for us to enquire if these usurpations were acquiesced in by the West India Company.

There are published in the New York Historical Society Collections, 2d series, commencing at page 377, several extracts from the manuscript colonial letters of the directors of the West India Company. It appears from one of these letters, dated March, 1651, that Walter Van Twiller, (after he was governor,) on behalf of the Manor of Rensselaerwyck, claimed the exclusive right to the navigation of the river and to Fort Orange, and to Bears Island, (nine miles below Albany.) This claim the Company indignantly repudiates. There is also a letter from Cornelius Huggiens, attorney-general in the New Netherland, dated in 1644, to Nicolas Koorn, Esqr., agent for Van Rensselaer, forbidding them to establish themselves on Bears Island, on the ground that a colony may not be extended more than four miles (12 English miles) along the coast, or two miles (6 English miles) on both sides the river, according to the charter of privileges. Van Koorn replies in behalf of Van Rensselaer, that he shall persist in taking possession of and building a castle on the island, and that the undertaking has nothing else in view than to prevent "the canker of freemen" entering the colony. The attorney-general renews the prohibition.

This correspondence establishes two facts: 1st, That Van Rensselaer's claim was under the general charter of privileges; and, 2d, That the extent of his claim under the charter was disputed by the West India Company and the government of New Netherlands.

The title of this charter was "Liberties or privileges granted by the Assembly of Nineteen of the authorised West India Company, to *all* such as shall or may settle or plant any colonies in New Netherland." By its provisions, *any* person who should within four years colonize fifty souls over fourteen years of age, of which number one-fourth were to be colonized within one year, could extend their limits four miles (twelve English miles) on one side of a navigable river, and two miles (six English miles) on each side of a river, and so far into the country as the situation of the occupiers would permit.

It appears, then, that Killian Van Rensselaer came over as the agent of the West India Company, and at their expense, to colonize lands purchased by the Company of the Indians in the neighborhood of Albany. That the very cattle upon his own farm were paid for by the Company. That shortly afterwards he quarreled with the Company and with the Government, and by a "sinister merchant trick," cheated the Company. That Michael Pann following his example, claimed Staten Island, and called it Panovia, and that these illegal proceedings prevented the colonies prospering. That the West India Company, having by their privateers taken a rich prize, the Portuguese sloop Piet Heyn, were so elated with this success, that they did not pay much attention at the time to these spoliations in New Netherland. That when the Patroon went still further and sought to prevent the "canker of freemen" from entering the colony, he was promptly prohibited, both by the Company and the Government, and told that the very charter under which he claimed, restricted him to twelve miles on one side and six miles on both sides of the river. That it was seen at this early day that the "canker of freemen" would destroy patroonery; hence the efforts to prevent freedom then—hence the efforts to suppress freedom now.

I think it is established that Kilhan Van Rensselaer, the lapidary, never on his own account established a colony—that he could not legitimately, or with justice, claim, as patroon under the charter—he not having gone to the expense or submitted to the sacrifices of a patroon, as contemplated and required by the charter. That the *extent* of his claim under the charter was controverted from the very commencement, and cannot be sustained by the charter itself. But, say the committee, there is a confirmation of his rights and of the New Netherland, signed by a notary public, dated 24th November, 1633.

The West India Company were about failing in 1633—it appears from Hazard's State Papers, 1 vol. 397, that they actually failed, temporarily, in 1634. The notary public, in his *protest*, saved and reserved *all* the acquired rights of all the colonists, without mentioning the name of any one person in particular. This, certainly, proves no title in the Patroon. The *venia testandi* to Killian Van Rensselaer, dated 5th January, 1641, was merely liberty given him to dispose of his heritage in the New Netherland by last will and testament. This, according to the charter, was always granted as a matter of course: but it established no right or title, and applied to *all* the possessions acquired, or to be acquired, by the applicant, without their being designated. That Killian Van Rensselaer did not apply for a *venia testandi* previous to 1641, is a very suspicious circumstance in regard to his property or possessions in the new world.

It is difficult to understand what the committee mean by the determination of the West India Company in favor of the Patroon, concerning the

Fuyck, dated 2d April, 1674. The *City* of Albany was known by the name of Fuyck, at one time, but all jurisdiction of the West India Company, in regard to the city or county was destroyed by the English conquest of 1664.

This committee say that there was a recommendation from the States General to King Charles II., in behalf of the colony of Rensselaerwyck, under the seal of the States General, dated 9th June, 1674. The *facts* in regard to this recommendation are these: After the re-conquest of the New Netherland by the Dutch, in 1673, all the magistrates and constables from East Jersey, Long Island, Esopus, and Albany, were immediately summoned to New York, and the major part of them swore allegiance to the States General and the Prince of Orange. When informed that negotiations were pending for a peace between England and the States General, those who had so often changed their allegiance, petitioned the States General that they shall suffer no detriment from the treaty. When, by the treaty of Westminster, in 1674, New Netherland was transferred to the king of England, the inhabitants, with their petitions, were referred to the king of England. (See *Lambrechten's History of New Netherland.*) One of these petitions was in behalf of the colony of Rensselaerwyck, but not for a recognition of Killian Van Rensselaer's claim.

Having now gone through with a review of the display of the Dutch title, made by the committee, I would inquire what there is in it at all that would satisfy any mind as to its validity. If Killian Van Rensselaer had a good title from the Dutch, it could be made to appear indisputably, and the following would be the character of the proof: 1st. A grant absolute from the West India Company. There is no such grant. 2d. Letters patent from the Dutch governors, Van Twiller, Kieft, or Stuyvesant. There is no such patent. That the Dutch governors were empowered to grant letters patent, appears from Smith's History. The style of the patents granted by Van Twiller, were thus—"We, director and council, residing in New Netherland, on the Island Manhattan, under the government of their high mightinesses the Lord States General of the United Netherlands and the privileged West India Company." 3d. There would be some record of a Dutch title. There is no such record.

But what is conclusive to my mind in relation to this matter, is the fact that the English government immediately after and sometime subsequent to the conquest, declined recognizing any such title, although if one existed, they were bound to recognize and confirm it by the articles of surrender. Among the terms of capitulation were the following: "All people shall continue free denizens, and shall enjoy their lands, houses and goods, wherever they are within this country, and dispose of them as they please. The Dutch here shall enjoy their own customs concerning their inheritances. All public writings and records which concern the inheritances of any people, shall be carefully kept by those in whose hands they now are." Governor Nichols devoted almost the whole time of his administration of three years in confirming old grants and patents that were valid. The code of laws published under Nichols, immediately after the conquest, contains the following provisions concerning lands:—"All lands, patents and bounds and limits of towns, are to be recorded in the office of records at New York, as well as in each particular town, and at the sessions. All lands and heritages within this government shall be free from all fines and licenses upon alienation." (This renders invalid all quarter sales.) "To the end all former purchases may be ascertained to the present possessor or right owner, they shall bring in their former grants and take out new patents for the same from the present governor, in behalf of his royal highness the Duke of York. Every patentee in

acknowledgment of the property of such lands belonging to his royal highness James Duke of York, shall, upon signing of the patent, pay unto the governor so much as they shall agree upon. That, whereas, it is said in the amendments of the laws that all grants and patents are to be brought in and renewed, &c. It is to be understood that all old grants which are brought in are to be confirmed and returned to the parties. And where no lawful grants are, or they may be doubtful, new and legal grants shall be obtained."

At a court of assizes, in 1666, was passed the following law, and approved of by the governor:

"The court having taken notice of the defects and failings of both towns and persons in particular, in not bringing in their grants or patents to receive a confirmation of them, or not coming to take new grants where they are defective, or where there are none at all, according to former directions in the law: as also taking it into their serious consideration that several towns and persons within this government, as well English as Dutch, hold their lands and houses upon the condition of being subjects to the States of the United Belgicke Provinces, which is contrary to the allegiance due to his majestie; they do, therefore, order that all grants or patents whatsoever formerly made, shall be brought to be confirmed or renewed by authority of his royal highness the Duke of York; and all such as have not patents shall likewise be supplied by the first day of April next after the date hereof; after which time neither towns nor private persons, whether English or Dutch, shall have liberty to plead any such old grants, patents or deeds of purchase, in law; but shall be looked upon as invalid to all intents and purposes."

It appears, then, that all valid grants from the Dutch were to be confirmed as a matter of right, but that patentees of doubtful grants were to take out new patents from Governor Nichols. That the Patroon's claim was considered doubtful, is evident from the fact, that he could not obtain an unconditional confirmation from the governor; that it was considered *very* doubtful, is evident from the fact, that the governor declined giving him a patent at all, but referred him to the Duke of York. These facts are proved from the statements of the committee, taken in connection with the recitals contained in the pretended letters patent of Queen Anne, a copy of which is annexed to the report of the committee. I refer to these recitals as evidences of some facts about which there is no dispute, and which had become matters of public notoriety, and were necessary to be mentioned in the instrument, whether the instrument itself was genuine or a forgery. The committee say that there was an express acknowledgment by Governor Nichols, under his seal, dated 12th October, 1664, continuing to the Patroon of Rensselaerwyck all his rights and privileges. The recital in the grant from Queen Anne says, that Richard Nichols, on the 18th of October, under his hand and seal, "did rule and appoint that the said Jeremias Van Rensselaer should and might lawfully enjoy and execute all such privileges and authority within the limits of Rensselaerwyck, as he did enjoy and execute before the surrender of New York aforesaid under his majesty's obedience. And that the inhabitants of the Manor should enjoy the benefit of the articles of surrender, *provided*, always, that within one year after the date hereof, the said Jeremias Van Rensselaer shall procure a distinct patent for the said colony from his royal highness, and, in the meantime, that all the inhabitants thereof shall take the oath to his said majesty, Charles the II. and the then present government." The recital in the deed and the statement of the committee widely differ. It appears from the deed, that the rights of the Patroon and the colonists of Rensselaerwyck, were not *defined* by Governor Nichols, and that their rights, whatever they might be,

were to be passed upon by the Duke of York within one year, the governor not taking it upon himself, although he had full power and authority so to do, to settle the question. It appears from the recitals in the deed, that up to the 10th of July, 1673, Jeremias Van Rensselaer had not yet obtained a patent. At this time, the committee say the Duke of York, by his warrant, directed an order to Col. Lovelace, then governor, to grant a patent for the colony of Rensselaerwyck. Here, again, the recital in the deed of Queen Anne differs widely from the statement of the committee The deed says that the duke directed Col. Lovelace to continue the privileges and authority to Jeremias Van Rensselaer, until he, the duke, should be better informed and enabled to determine whether it was proper to grant a patent to Van Rensselaer or not. In 1674, Jeremias Van Rensselaer died, without having obtained any patent or confirmation of his claim from the English government, and there is no pretence on the part of the committee that any deed or letters patent was granted for the Manor by the English government to any person or persons prior to the year 1685.

It has been shown, from the laws of the colony, that all old Dutch grants should be deemed invalid to all intents and purposes that were not confirmed by the English government, and recorded prior to the 1st of April, 1666. Unless, then, the Van Rensselaers can show an English title acquired subsequent to that time, their claim to the manor on that ground entirely fails. They pretend to have such title, and an investigation of this claim will form the subject of our next number.

NUMBER III.

In the two preceding numbers we have attempted to show that the Van Rensselaers have no legal and valid title to the Manor of Rensselaerwyck, derived from the Indians, or the Dutch government, or the Dutch West India Company. Our inquiry will now be directed to the alleged English title as set forth in the report of the judiciary committee to the Assembly of 1844. The committee state that there was a patent for the Manor granted by Governor Dongan, Nov. 5, 1685. That the patent is upon parchment in the possession of the proprietors, and that the signature of the governor is placed about midway on the lower and turned up margin of the parchment, and evidently the seal of the colony affixed, although worn and much mutilated—that all doubts in relation to it are removed by the actual recital of this very document, nineteen years afterwards, in the patent from Queen Anne, into which it is copied. That after reciting the consideration it conveys the Manor of Rensselaerwyck "in obedience and in pursuance, and performance of several orders, directions and commands of his said majesties commission and authority to me given," "To Killian Van Rensselaer the son of Johannes Van Rensselaer, and Killian Van Rensselaer the son of Jeremias Van Rensselaer, their heirs and assigns forever," "in trust to, and for the use and behoof of the right heirs and assigns of the said Killian Van Rensselaer, grandfather to the said Killian Van Rensselaer, party to these presents." Several questions of law here arise in regard to the legal effect of such an instrument, if actually executed—but the consideration of these will be reserved for another number, as will also the question, if the claimants are the right heirs at law of Killian Van Rensselaer, the grandfather mentioned in the grant.

The committee seem to concede, that independent of the recital of the Dongan grant in the grant from Queen Anne, the mutilation of the seal, and the signature of the governor being in the middle of the lower and turned up margin of the parchment, would raise some doubt as to the

genuineness of the instrument. As the one grant is to be proved by the other we will now compare them together and see how far they agree: 1st. The grant of Queen Anne contains several recitals in relation to the inducements and preliminaries of the Dongan grant which are not contained in the Dongan grant itself. 2d. The parchment purporting to be the Dongan grant was dated, the committee say, 4th November, 1685, the recital in the Queen Anne grant says the Dongan grant was given the 5th day of November, in the first year of the reign of King James II., but that this was after the 30th year of the reign of Charles II. Now, as King Charles II. commenced his reign in the year 1660, thirty years after this time would bring us to the year 1690, a difference of five years, between the date of the Dongan grant as stated by the committee and as stated by the recital in the patent from Queen Anne.

In every one of the grants of Governor Dongan I have been able to find, for example his grant of a charter to the city of New York, and to the city of Albany, both granted in 1686, it is stated in express terms, that the governor himself had caused to be enrolled and recorded in the secretary's office the patent or charter, and in fact this was essential to the validity of the grant. There is no pretence that any grant of the Manor of Rensselaerwyck from Governor Dongan was ever enrolled or recorded.

After the revolution of William and Mary, all laws and grants in the colony made under the Duke of York, were regarded with much jealousy and disfavor, and hence the first general assembly in the colony after the revolution, passed the following resolution, as appears from the Journal of 24th April, 1691. "Resolved, Nemine Contraticerte — That all the laws consented to by the general assembly of James, Duke of York, and the liberties and privileges therein contained, granted to the people and declared to be their rights, not being observed, and not ratified and confirmed by his royal highness nor the late king are null and void, and of none effect. And also, the several laws made by the late governors and councils being contrary to the constitution of England and the practice of the government of their majesties other plantations in America, are likewise null and void, and of none effect or force within this province."

This general assembly to quiet forever all conflicting claims for lands arising before the revolution, passed an act, "that all charters, patents, and grants, executed under the seal of the Province, and registered in the secretary's office shall be confirmed." (*Bradford's edition of the Colonial Laws, p. 5.*) The pretended Dongan grant then not being registered in the secretary's office in 1691, was null and void, if indeed it had ever been executed. The Van Rensselaers then can have no valid English title unless acquired subsequent to the year 1691, and this brings us to a consideration of Queen Anne's grant.

In order to establish the validity of this grant, it must be made to appear that it was granted by the then Governor Cornbury, with the advice and consent of his council. All the information upon this subject that can be obtained is to be found in the minutes of the council on record in the secretary's office. A copy of these minutes so far as they can have any bearing upon this question, is annexed to the report of the select committee made to the assembly in 1844, numbered 189. I refer to the full copy of the minutes attached to this report in preference to the partial copy made by the judiciary committee in document 183. From these minutes and the statements of the judiciary committee we derive the following facts: That on the 3d of November, 1703, one Killian Van Rensselaer, then a member of the council, presented to his excellency Viscount Cornbury and the members of his council then present, his pe-

tition in relation to the Manor of Rensselaerwyck, and praying a patent of confirmation in himself as the right heir of Killian the grandfather. This petition was referred "to the members of the board, or any three of them who are to examine into the truth of the allegations in the said petition contained, and make report to this board how they shall find the same."

On the following day a report endorsed on the petition was made, of which the following is a copy:—"In obedience to your excellency's order, in council of the third instant, we have perused ye within petition, and it appears to us by several orders from the Duke of York, and other deeds and writings showed to us, that ye petitioner is heir at law of the within named Killian Van Rensselaer, the grandfather, and is well entitled to have a patent of confirmation as prayed in the said petition, ye petitioner and his father Jeremias Van Rensselaer having been in the quiet and peaceable possession of the premises about fifty years, all of which is nevertheless submitted to your excellency." Then follows the following order of the council:—"On reading at the board the report of the gentlemen of the council to whom the petition of Killian Van Rensselaer was yesterday referred, the same was approved of, and ordered that a warrant issue to the attorney general to prepare a draft of letters patent of confirmation as desired by said petition at a yearly quit rent of fifty bushels of good merchantable winter wheat."

It will be observed that the order in council was not that letters patent of confirmation should be granted, but that they should be prepared by the attorney general. The final question could not be taken until the letters of confirmation were presented for execution, and in the mean time any person had a right to enter his caveat, or protest against their being granted. As the proceedings of the committee of reference were subject to review and reversal, it might have been urged at the time, as I have no doubt it was at a subsequent meeting of council, that this packed committee of three belonging to a council of which Van Rensselaer was himself a member, and which made their report within a few hours after these important matters were submitted to them, must have been mistaken in every material fact as stated by them, for: 1st, this Killian, the son of Jeremias Van Rensselaer was *not* the heir at law of Killian the grandfather, as the judiciary committee of 1844 themselves submit. According to the genealogical chart furnished by the Van Rensselaers themselves to the judiciary committee at this very time, that is in 1703 *another* Killian Van Rensselaer was the true heir, viz. Killian the son of John Baptist who was the *eldest* son of Killian the grandfather, whereas, this Killian in whose favor the committee made their report, was the son of Jeremias, who was a *younger* son of Killian the grandfather: 2nd, it appears from the Journals of the General Assembly that this Killian Van Rensselaer the son of Jeremias, and from whom all the Van Rensselaers now claim, was on the first day of May, 1691, an *alien*, and of course he could at that time have been long in this country: 3d, it appears from the report of the judiciary committee and from the recital in the grant from Queen Anne, that the order from the Duke of York to Governor Andross in 1678, stated that the heirs of Killian Van Rensselaer the grandfather, had been out of possession since 1652. How then was it possible that the heirs could have been out of possession from 1652 to 1677, and in possession from 1653 to 1703. It is for the reader to reconcile these discrepancies if he can.

The report of the committee of reference and the order of the council thereupon, was not submitted to. A caveat was entered by one Barent Peters Coeymans, and Killian Van Rensselaer's claim boldly disputed. The attorney-general declined preparing the letters patent of confirma-

tion and the work was to be commenced anew. The governor, who by this time began to entertain doubts of the justice, or validity of the claim, heard a debate by counsel on both sides of the question, and his doubts and suspicions being increased, "Ordered that the parties should produce their former patents and writings to a committee of the council appointed, to inspect and peruse the same, and report to the council what they did thereon." The committee made their report to the council held at Fort Ann on the 8th of May, 1704. This time it was not alleged that Killian Van Rensselaer was the heir at law of Jeremias the grandfather, or that he and his father Jeremias had been in possession for fifty years, but simply that granting letters patent as prayed for, in the petition, *without any addition*, could not impair any of the rights of Barent Peters Coeymans. The judiciary committee say that "the minutes proceed to recite the determination against the caveat:" the minutes make no such recital except in the modified sense I have mentioned. The council made the following order:—"His excellency and council who therefore order and direct the attorney-general to proceed in preparing the said patent accordingly." Still there was no final decision, and the proceedings thus far evidently contemplate further action on coming in of the report of the Attorney-General, but no such subsequent action was had. The matter seems to have been dropped in council, and in the mean time Barent Peters Coeymans was quieted by obtaining a lease from Van Rensselaer without consideration, for a large portion of the lands said to have been included in the Manor. This release was dated on the 22d of October, 1706. It was the uniform practice when final orders of importance were made in council for the governor to transmit information of it to the general assembly by his message, and the purport of his message was entered upon the journals of the house. I have examined carefully the very full and complete journals of the general assembly for the years 1703–4–5, and although I find many messages were received from the governor and council of much less importance, there is no entry in regard to the patent, and this omission is the more remarkable that this patent if genuine required of the general assembly to regard it in their apportionment of representatives. Still the committee say, that the patent was granted, and this patent now claims our attention.

The patent of Queen Anne, the committee say, is dated on the 30th of May, 1704, in the third year of her reign, and they append a copy to their report. The following is an abstract of the patent. It is in the name of Queen Anne, recites that Killian Van Rensselaer, and Jeremias his son, at their vast expense, cost and charges were the first settlers of the lands mentioned under the government of the States General of the United Netherlands—the grant of King Charles II. to the Duke of York on the 12th of March, in the 16th year of his reign, and the surrender of Peter Stuyvesant to Richard Nicolls, on the 27th of August, the same year—the articles of surrender at which time Jeremias Van Rensselaer was in possession—that Richard Nichols on the 18th of October, in the same year, under his hand and seal, did "order and appoint that the said Jeremias Van Rensselaer should and might lawfully enjoy and execute all such privileges and authority within the limits of Rensselaerwyck, as he did enjoy and execute before the surrender of New York aforesaid under his majesties obedience," and "that the inhabitants of the manor should enjoy the benefits of the articles of surrender, provided always, that within the space of one year after the date thereof, the said Jeremias Van Rensselaer should procure a distinct patent for the said colony, for his said royal highness, and in the mean time, that all the inhabitants thereof should take the oath of allegiance to his said majesty, Charles the Second, and the then present government, which said privilege and

authority on the twelfth day of October, in ye seventeenth year of the said King Charles the Second, were confirmed and reserved to the said Jeremias Van Rensselaer till further order by writing under the hand of the s'd Richard Nicholls, Esq." that the Duke of York, by warrant, the 8th day of May, in the eighteenth year of Charles II., directed Richard Nicholls, Esq., to continue to said Jeremias Van Rensselaer, Esq., his rights and authority, and the inhabitants of the colony, their privileges under the article of surrender, until the Duke could be better informed what to do in the premises—that the Duke of York, by his warrant the 10th day of July, in the 25th year of Charles II, directed Col. Lovelace to continue the privileges and authority to Van Rensselaer and the inhabitants of the colony, until he, the Duke, should be better informed what to do in the premises. The deed further recites that Jeremias Van Rensselaer in 1674, died, seized and possessed of the Manor—that the Duke by his warrant of the 7th of June, in the 30th year of Charles II., directed Edmond Andross "to cause letters patent under the great seal of the government of New York," to be granted to the said petitioners, granting and confirming unto them the said Rensselaerwyck colony, with such privileges and immunities as then formerly they had, and that the warrant recited, that the heirs of Killian Van Rensselaer had been out of possession since 1652. The letters further recite, that Thos. Dongan, on the fourth of November, in the first year of King James II., gave a patent which is described; it represents that the application for the patent was by Killian Van Rensselaer, of the village of Dorpe, of New Kirke, in the province of Gelderland, in Europe, eldest son and heir of Johannes Van Rensselaer, deceased, who was the eldest son and heir of the first Killian Van Rensselaer—that this Killian Van Rensselaer the 2nd, had become naturalized by an act of Assembly, of the province of New York—that the deed was, "to Killian Van Rensselaer the son of Johannes Van Rensselaer, and to Killian Van Rensselaer the son of the said Jeremias Van Rensselaer, their heirs and assigns, for all that and those tracts of land called Rensselaerwyck, lying and being in and upon the lands of the Hudson River aforesaid, in the county of Albany, in the province of New York aforesaid, theretofore called and known by the name of ye colony of Ranslaerwyck, beginning at the south end, or part of Berren Island, on Hudson river, aforesaid, and extending northward up along both sides of ye s'd river into a place theretofore, and yet called the Kahoos, or the great falls of ye s'd river, and extending itself east and west all along, from the east side of the said river backwards into the woods twenty-four English miles"—excepting the fort and town of Albany, and liberty to cut fire wood and timber for fences, for twenty-one years—constituting the Manor of Rensselaerwyck—giving the power to hold court leet and court barron, and all the powers incident to a feudal manor, and one deputy to sit in general assembly. That the Dongan grant, was "in trust for the right heirs and assigns of Killian Van Rensselaer their grandfather, under the yearly rent of fifty bushels of good winter wheat, in full of all rents or former reserved rents, services and demands whatsoever," (here is the end of the description of the Dongan patent.) The deed of Queen Anne further recites, "that Killian Van Rensselaer son of Johannes Van Rensselaer died in the year 1687, without issue, whereby Killian Van Rensselaer, eldest son of the said Jeremias Van Rensselaer, became solely seized and possessed of the colony." It then speaks of the petition of Killian Van Rensselaer in November, 1703, preferred in council, (here end the recitals.) The deed then confirms the grant of Dongan, "to be holden in free and common socage, as of our manor of East Greenwich, in our county of Kent, in our realm

of England," at a yearly quit rent of fifty bushels of good merchantable wheat. The deed purports to be tested in the name of Edward Viscount Cornbury, captain general and commander-in-chief of the province,—*but his name is not signed to the patent.* It is transcribed in the books of patents, No. 9, p. 237, but has no signature of any person attached. The Committee say that it is signed by the Secretary of the Colony, George Clark, upon the lower and left hand side, and turned up margin of the parchment, and that the seal bears the name of William and Mary.

I shall proceed now to urge some objections against an implicit belief in the genuineness of this document. 1st. It creates a feudal estate and domain, in violation of the statute *quia emptores*, passed in the reign of Edward I., and of the Bill of Rights, in the reign of Charles I., and is in violation of the British laws, and constitution existing at the time. There are no manor estates of a feudal character at this day existing in England that were not created before the time of Edward I.,and parcels of these are called *copyhold* estates. In a subsequent number I shall attempt to show that it was beyond the power of the sovereign even to grant a charter such as that under which the Manor of Rensselaerwyck is now claimed. 2d. The historical mistakes and inaccuracies of the pretended patent, are so many and so glaring as utterly to preclude the idea that it was ever executed as an official document. I will allude to some of these errors. The Deed recites that the New Netherland was granted by Charles II., to his son the Duke of York on the 12th of March, in the sixteenth year of his reign. The reader will see by referring to Hume's, or any other history of England, that Charles II., ascended the throne in 1660; the sixteenth year of his reign was in the year 1676, and the grant to the Duke of York was made in 1664, a mistake of 12 years. The surrender of Stuyvesant, was in 1664, and the deed makes it in 1676, another mistake of 12 years. The deed speaks of an order by the Duke of York to Governor Lovelace, dated the 16th of July, in the 25th year of Charles II. that is in 1685, and several months after the death of Charles. Now governor Lovelace ended his administration in 1667, eighteen years before the alledged date of the order. The deed speaks of an order from the Duke of York, directed to governor Andross in the thirtieth year of Charles II., (1690,) when long before this Charles II., had ceased to live, and his bones had been mouldering in the tomb of his ancestors for more than five years. He reigned but 25 years, and died in 1685, when fifty-five years of age. The deed makes him sixty years of age at the time of his death, and upon a temporal throne five years after he had appeared before the King of kings. 3d. It does not appear that the patent was ever executed. Governor Cornbury's name is not signed to it. The name of Geo. Clark, Secty, is placed in the extreme left hand corner of the lower margin, and is no more a part of the instrument than it would be if placed on a separate parchment. It is charitable to suppose that it was placed there merely as a memorandum, or as a reference. There is no law, or authority to be found that so important a dobument could be signed by such an officer as a valid execution. There is no example of a legal instrument being signed by the proper officer in the left hand column of the lower margin at a considerable distance below all writing.—No man could be convicted of forgery in any court of justice for signing any name in such a place to any paper. It is but reasonable to suppose that Mr. Clark's official signature to papers he was authorized to sign, was something more than simply "Geo. Clark, Secty;" that in signing papers in which his name or office was not mentioned he would at least give some data by which future generations might be enabled to determine whether he was secretary of a bank, of a turnpike company or the private and confidential secretary of Killian Van Rensselaer, es-

pecially as for want of this information from himself there is no means of ascertaining it from other sources—none at least that I can find after diligent search and inquiry. 4th. We must be allowed to doubt that the seal of William and Mary was the seal of the Province in the third year of the reign of Queen Anne. I have yet to learn that *such* a seal was attached to the charter given by Governor Cornbury to the city of New York in the year 1708. We do know that the governor's own proper name was attached to this charter of New York, and that he was wont to sign all his patents. 5th. There is no record proof of this patent.—The scribe who in pursuance of the law passed 31st Dec. 1768, transcribed all old valid or doubtful Dutch and English documents in books provided for that purpose in copying this patent so called, did not consider Geo. Clark's name there as a signature, and omitted it in the copy. *It is proved by the record that the patent was never signed, and this is all that the record proves, and as this record is the only show of a government grant, the Van Rensselaers can exhibit as a record—I would ask if it is not record proof that the Van Rensselaers have no record title.*

I shall resume the further consideration of the alledged English title in my next number.

NUMBER IV.

In my last number I assigned amongst other reasons for my distrust of the genuineness of the Queen Anne patent, that it was in violation of the English constitution and laws, existing at the time it purports to have been granted; and as it is of the utmost importance that this fact should be established and will render comparatively easy our further review of the report of the judiciary committee; I shall proceed to an examination of the nature and kind of the estate granted by the patent upon the supposition that it is genuine, and endeavor to ascertain how far it conflicted or was in accordance with the laws of the government under which it is said to have been issued. As I shall attempt to establish that the estate granted by this alledged patent, was feudal in its nature, character and inception, it becomes necessary for us to have a clear and distinct understanding of what constitutes a feudal estate, and for this purpose I shall treat of the origin, rise, decline and final subversion of feudalism in its most obnoxious features throughout the British dominions, and attempt to show that the Van Rensselaer patent is not a *relic* of this ancient barbarism, but an infamous and most presumptious attempt at *revival*, and that it is an insult to the age and generation in which we live, for any person to pretend that this preposterous claim, was ever founded in reason, justice or law.

Feuds were originally a military policy of the northern conquering nations, devised as the most likely means to secure their new acquistions, and were large districts or parcels of land given or allotted by the conquering general to the superior officers of his army, and by them dealt out in less parcels to the inferior officers and most deserving soldiers. Thus a proper military subordination was naturally and rationally established and an army of feudatories were so many stipendaries always on foot, ready to muster and engage in defence of their country. So that the feudal returns of fealty or mutual fidelity and aid, seem originally to have been political or rather natural consequences drawn from the apparent necessity these warlike chiefs were under, of maintaining their ground with the same spirit and by the same means they had got it. (*Wright's Law of Tenures*, 7–10.) This service was originally purely military, and the possession of the feudatory by homage or fealty was in the infancy of feuds, a kind of military engagement, rather implied than

expressed, to be faithful to his benefactor and also assistant unto him. (*Spellman on Feuds*, 6.)

As the princes of Europe were every day more and more alarmed by the progress of the northern standard, many of them and by degrees *all* went into this or a like policy; and in imitation of it parceled out some of their own possessions or territories under an *express* fealty, engaging their beneficiaries or feudatories to make to them the like returns of fidelity and aid, as followed from the nature and design of an *original* feud. (*Wright Ten.* 10–13.) Feuds were originally precarious and held at the will of the lord, they next became certain for one year, and were some time after given for life. But though feuds were not at first hereditary it was unusual to reject the heir of the former feudatory provided he was able to do the services of the feud, and the lord had no just objection against him. But though the lord did not remove the heir from the feud, yet he did not succeed absolutely as of course, but paid a fine or made some acknowledgment called a *relief* for the revival of the feud, and though that reason ceased, yet the fine was continued afterwards and became hereditary. (*Wright* 13–15.) Feuds were afterwards extended beyond the life of the first vassal or feudal tenant, to his sons or some one of them whom the lord should name. In process of time, grand-children succeeded to sons and brothers to brothers. At length not only descendants in the direct line succeeded in *infinitum* but collaterals also, without regard to their degree, provided they were descended from, and were of the blood of the first feudatory. (*Wright* 15–18.) Feuds being thus originally in the hands of military persons who were under frequent incapacities to cultivate their own lands, they found it necessary to commit part of them to persons, who, having no feudal possessions of their own, were glad to possess them on any terms. *Proper* feuds are such, and such only, as are purely military and hereditary, and such as in all respects preserve the nature of an original feud as before explained. It was the military nature of these feuds that first rendered women and monks incapable of receiving or succeeding to feuds of this sort, and that restrained the alienation, devising or incumbering the feud by the feudatory without the consent of the lord, and of the seignory by the lord without the consent of the tenant, the obligations of the superior and inferior being mutual and reciprocal. The feudal course of succession in all proper feuds belonged to the sons only (exclusive of daughters) and to them equally; until by a constitution of the emperor Frederick honorary feuds became indivisable, and as such they, and in imitation of them, military feuds in most countries, began to descend to the eldest son only. (*Wright* 27–32.) *Improper* feuds are such as are sold or bartered for any immediate or contracted equivalent, or that are granted free of all service; or in consideration of one or more *certain* services, whether military or not; or upon rent in lieu of services, and all such feuds as are by express words in their creation or constitution alienable or allowed to descend indifferently to males or females. (*Wright* 32.) *Fealty* the essential feudal bond is necessary to the very nature of a feud and the most improper feud cannot subsist without it. (1 *Inst.* 129.) *Aid* is an obligation upon the feudel tenant to contribute to the private necessities or occasions of the lord, and depends upon the usage or custom of the several countries where they are established. (*Wright* 40–42.)

William the conqueror first introduced feuds or tenures into England. He caused a general survey of England to be made and entered in the Dooms Day Book, and then summoned all the great men and land holders in the kingdom to London and Salisbury to do their homage and to swear their fealty to him; it then became a fundamental maxim, principle or fiction of English law that the king is universal lord of his whole

territories, and that no man doth or can possess any part thereof or lands therein, but as either mediately or immediately derived from him. We find accordingly among the laws of William I. "that all owners of lands shall expressly engage and swear that they will become vassals or tenants, and as such faithful to William as their lord, and that they will in consequence thereof everywhere faithfully maintain and defend his their lord's territory and title, as well as person, and give him all possible aid and assistance against his enemies foreign and domestic." *Wardship* became part of the law of feuds after they became hereditary—*wardship of the land* was the custody of the feud itself retained by the lord when it descended on infants, that out of the lands he might provide a fit person to supply the infant heir's defect of services until he became of age to perform them. *Wardship of the body* was when the lord who had the custody of the feudal land had likewise the care and maintenance of the infant feudatory. The English lords took upon themselves the right to dispose of their male and female wards in marriage. (*Spellman on Feuds* 29.) The three most usual and frequent *aids* exacted from the tenants that became fixed and established in England were 1st. To make the lord's eldest son a knight. 2d. To marry his eldest daughter by giving her a suitable apportionment. 3d. To ransom his person when taken by the enemy. (2 *Comyn's Digest*, 63–86.) An *Escheat* is when the fee determines for want of heirs and falls back upon the lord. (*Spellman on Feuds* 37.) *Escuage* was a pecuniary aid or contribution, or reserved interest in lieu of personal services in the wars. (*Littleton*, *sec.* 95.) When the escuage became certain, it did in effect discharge the tenant from all military service, and the persons who held by such escuage were looked upon as socage tenants by knight service.

Tenures are divided into tenures by knight service and in socage. According to Blackstone "there were four principal species of lay tenures to which all others may be reduced, the grand criterion of which were the nature of the several services that were due to the lords from their tenants. The services in respect to their quality were either *free* or *base* services, and in respect to their quantity and the time of exacting them were either *certain* or *uncertain*. *Free* services were such as were not unbecoming the character of a soldier to perform, as to serve under his lord in the wars, to pay a sum of money, and the like. *Base* services were such as were fit only for peasants or persons of a servile rank, as to plough the lord's land, to make his hedges, to carry out his dung, or other mean employment. The *certain* services whether free or base, were such as were stated in quantity and could not be exceeded on any pretence, as to pay a stated annual rent or to plough such a field for three days. The *uncertain* depended upon unknown contingencies, as to do military service in person or pay an assessment in lieu of it, when called upon; or to wind a horn when the Scots invade the realm, which are free services, or to do whatever the lord should covenant which is base, or villein service."

Bracton, who wrote in the time of Henry the Third, says, "Tenements are of two kinds, frank tenement and villeinage. And of frank tenement some are held freely or in consideration of homage and knight service, and others in *free socage* with the service of fealty only," and again, "of villeinages, some are pure and others are privileged. He that holds in *pure villeinage* shall do whatever is covenanted him, and always be bound to an uncertain service. The other kind of villeinage is called *villein-socage*, and these villein sockmen do villein services, but such as are certain and determined.

Jacobs, in his Law Dictionary, says, "that 1st. where the service was free but uncertain, as military service with homage, that tenure was

called the *tenure in chivalry*, or by *knight service*. 2d. Where the service was not only free but also certain, as by fealty or by rent and fealty, &c., that tenure was called the tenure by *free socage*. These were the only free holdings, others were villeinous or servile, as 3d. When the service was base in its nature and uncertain as to time and to quantity, the tenure was absolute or *pure villeinage*. Lastly, where the service was base in its nature but reduced to a certainty, this was still villeinage, but distinguished from the other by the name of privileged villeinage, or it might be still called socage, but degraded by their baseness into the inferior title of *villein socage*."

The socage tenures are divided by the English lawyers according to their duration into estates in fee, for life, for years and at will. Estates in fee are either fees simple or fees tail. "A tenant in fee simple is he who hath lands or tenements to hold to him and his heirs forever." (*Litt. sec.* 1.) A fee tail is a fee limited and restrained to some particular heirs in exclusion of others. The committee say that Killian Van Rensselaer, to whom the Queen Anne grant was given, *entailed* his estate by will to particular heirs.

The reader will bear in mind that most of the leases given by the Van Rensselaers to their tenants, reserve not only rent certain, but require also menial services to be performed, amongst which it is mentioned that they shall perform certain day's labor as required by the Patroon. They may be required to cart his dung from his premises.

It will be remembered from the above definitions, that *socage* denotes a tenure other than military, by every certain and determinate service. Free socage is when the services are certain and honorable, and *villein socage* is when the services, though certain, are of a base nature. Free services are such as are not unbecoming the character of a soldier, or a freeman to perform—base services are such as are fit only for persons of a servile rank; as to plough the lord's lands, to make his hedges, to carry out his dung, and other mean employment. When the services are not only base but uncertain also, the tenure is *pure villeinage*.

It is evident, then, that the estates created by Van Rensselaer, by such leases as I have mentioned, are not in *free and common socage*, but either of pure villeinage, or of *villein socage*.

This fact I wish distinctly borne in mind, for it has an important bearing upon the question of title, as will appear in the sequel. We will give the most liberal construction for the patroon upon these leases, and say they are in *villein socage*.

"Manors were formerly called baronies, as they still are lordships, and each lord, or baron, was empowered to hold a domestic court, called the court baron, for redressing misdemeanors and nuisances within the manor, and for settling disputes of property among the tenants. This court is an essential ingredient to every manor, and if the number of suitors should so fail as not to leave a jury, or homage, that is two tenants at least, the manor itself is lost. (4 *Jacob's Law Dictionary*, p. 231.)

In the early times of the English constitution, the king's greater barons, who had a large extent of territory held under the crown, granted out frequently smaller manors to inferior persons to be holden of themselves, which do, therefore, now continue to be held under a superior lord, who is called in such cases the lord paramount over all these manors, and his seignory is frequently termed an honor, not a manor, especially if it hath belonged to an ancient feudal baron, or hath been at any time in the hands of the crown. In imitation whereof these inferior lords began to carve out and grant to others still more minute estates to be held of themselves, and so were proceeding downwards in *infinitum*, till the superior lords observed that by this method of subdivision they

lost all their feudal profits of wardship, marriages and escheats, which fell into the hands of these mesne, or middle lords, who were the immediate superiors of the terre tenant, or him who occupied the land; and also, that the mesne lords themselves were so impoverished thereby, that they were disabled from performing their services to their own superiors. (*Jacob's Law Dictionary*, 4 *vol*, *p.* 231.)

"*Tenure* is the manner whereby lands or tenements are holden, or the service that the tenant owes to his lord; there can be no tenure without some service, because the service makes the tenure. (1 *Institute*, 1, 93.) The service due for estates in free socage, is fealty only. "Almost all the real property of the kingdom is by the policy of our laws supposed to be granted by, dependent upon, and holden of, some superior lord, by and in consideration of certain services to be rendered to the lord by the tenant or possessor of this property. The thing holden is therefore called a *tenement*, the possessors thereof *tenants*, and the manner of their possession *tenure*. Thus all the land in the kingdom is supposed to be holden mediate, or immediately of the king, who is styled lord paramount, or above all. Those who hold immediately under him, in right of his crown and dignity, were called his tenants in capite, or in chief. (2 *Comyn*, *c.* 5.)

I have endeavored to give a connected statement of the rise of the feudal system, and some of its most distinguishing characteristics, in the words of the writers themselves, but much has been omitted as having no bearing upon the points I design to raise, and in treating of its decline and final abandonment, the same order will be pursued. I now state as a proposition, that the patent of Queen Anne creates a feudal estate in all its harsh and objectionable features, and that the powers conferred by this supposed grant were in palpable violation of law, declared more than a century prior to the date of the deed, and which have been in force ever since under every change of government. The following fruits grew out of the feudal system, and were at one time English law: 1st. The tenant in capite, or king's immediate grantee, could grant out all his desmesne in lesser parcels to tenants under him This is altered by 33 ch. of Magna Charta, 9 Henry 3. (which is not to be found in the first charter granted by that prince, or in the great charter granted by King John,) "that no man should either give, or sell his land without reserving sufficient to answer the demand of his lord." It appears from the statement of the committee that Killian Van Rensselaer the 1st, had three children—John Baptist, the eldest son, and the only son of a former marriage, and Johannes and Jeremias Van Rensselaer. The pretended grant of Governor Dongan was not to John Baptist, to whom and whose heirs the land would descend according to the rule of primogeniture then and still English law, but to Killian, the son of Johannes, and Killian, the son of Jeremias, in trust for the right heirs of Killian the grandfather, that is, in trust for John Baptist and *his* heirs—this John Baptist had a son Killian, and this Killian, the committee say, in 1695, being empowered by all the heirs in Holland, released to Killian, the son of Jeremias, all claims to the Manor. I shall have occasion, hereafter, to inquire in relation to this *trust estate* as a trust, and the alleged release from the right heirs, but shall for the purposes of the present argument, assume the statement of the committee in the absence of all proof to be true. I then say that the release from the heir was unlawful, as he did not reserve sufficient to answer the demand of the king. 2d. The terre tenant owed fealty or homage to the mesne lord, or his immediate feoffer, as did the tenant in capite to the king. This was altered by the statute of *Quia Emptores*, 18 Ed. ch. 1, which directs "that upon all sales, or feoffments of lands, the feoffee shall hold the same, not of his immediate feoffer, but

of the chief lord of the fee of whom such feoffer himself held it." This law not applying to the king's immediate tenants in capite, another act was passed, called *perogativa regis*, 17 Ed. 2, c. 6—34 E. 3, c. 15, which declared "that all subinfeudations, previous to the reign of King Edward I., were confirmed, but all subsequent to that period were left open to the king's prerogative;" hence it is clear, says Jacobs, in his Law Dictionary, 4 vol. p. 231, "*That all manors existing at this day must have existed as early as King Edward I.*, for it is essential to a manor that there be tenants who hold of the lord, and by the operation of these statutes no tenant in capite since the accession of that Prince, (Edward II.) and no tenant of a common lord since the statute of *quia emptores* could create any new tenants to hold of himself." Will it be said after this that any new manor has been created since the reign of Edward I.? And here I must say in this connection, that on this wide continent, where English common law prevails, I can find only two solitary cases where manors are, or have been, claimed in their feudal sense, and these two are the manors of Rensselaerwyck and Livingston. I say further, that the question of the legality of these two manors, as manors, *has never been presented or passed upon in a court of law.*

3d. A court baron and court leet necessarily belongs to every manor, but since the statute of *quia emptores*, no such court can be created, for it implies fealty, or allegiance to a mesne lord. "A manor may be compounded of divers things, as of a house, arable land, pasture, meadow, wood, rent, deodands, court baron and such like, and this right ought to be of long continuance of time, beyond the memory of man, *for at this day a manor cannot be created*, because a court baron cannot now be made, and a manor cannot be without a court baron." (*Coke upon Littleton*, 58, 108.) Is it not incredible that long after this plain statement of law by the great jurists Coke and Littleton, a patent should be given to the Van Rensselaers expressly creating a manor, and authorising them in express terms to hold courts baron.

4th. By the degenerating of knight service, or personal military duty into escuage or pecuniary assesments, all the advantages either premised, or real of the feudal constitution were destroyed and nothing but the hardships remained. At length military tenures, with all their heavy appendages were destroyed at one blow, by the statute 12 Charles II., c. 24, which enacts, "That the court of wards and licences, and all wardships, liveries, primier seisens and ouster lemains, values and forfeitures of marriage by reason of any tenure of the king, or others, be totally taken away; *and that all fines for alienation*, (quarter sales,) tenures by homage, knights service and escuage, and also aids for marrying the daughters, or marrying the son, and all tenures of the king *in capite* be likewise taken away—and that *all sorts* of tenures held by the king, *or others* be turned *into free and common socage*, saving tenures in franklemaign, copyholds and the honorary services of grand seignory." Copyhold estates were all parcels of a manor that existed by grant, and prescriptive right prior to the time of Edward I. (3 *Comyn's Digest*, 209.) Estates in franklemaign and grand seignory were peculiar estates confined to particular locations and a few individuals, and existed by prescriptive right. After this important law of Charles II., which more than doubled the wealth of the kingdom of England, all the estates in the kingdom and colonies, with the trifling exceptions of franklemaign and grand seignory, consisted of copyhold, or manor estates, that were created before the reign of Edward I., and of estates of free and common socage. No manor estates were, or could be afterwards created—and neither Governor Dongan, or Governor Cornbury, or King James, II., or Queen Anne, or Killian Van Rensselaer, or any other person, had power to grant any other es-

tate than that of *free and common socage*, or to give any estate that would enable the grantees to create any estate, other than that of free and common socage. It is one of the most extraordinary absurdities and contradictions, of the extraordinary and contradictory patent of Queen Anne, that while it allows the Van Rensselaers to hold the estate in free and common socage of the king, it gives *them* the power to require all their tenants to hold of *them* in pure villeinage, and even by military tenure, and that this was their understanding is evident from their having made vassals of their tenants. They claimed, that the feudal system itself was tortured and twisted to make slaves of their tenants, and independent lords of themselves—that they held the Manor in free and common socage, but their tenants held under the most oppressive restrictions of feudalism—they actually *exercise* the powers of feudal barons in exacting quarter sales and base services, and were restrained by *prudential* motives only from exercising also the right of advowsen, of appointing the ministers of the people, of *deodands*, of *waifs*, of *estrays*, of numberless exactions under the name of *aids*, of exacting homage and fealty by open and public, and degrading ceremonies in their courts leet and baron, of determining cases both civil and criminal, of appointing sheriffs, constables and other officers, and many other powers too numerous to mention, *all* of which were conferred by the patents of Governor Dongan and Queen Anne, the most of them expressed, and the rest resulting as appendant to a manor, powers which if enforced in all their length and breadth would destroy every vestige of liberty and degrade man below the brute—yet we are told such were the grants that were given by the governers of a free province, over a free people, in direct and palpable violation of British laws, the British constitution and British protection. *Reader do you believe it?*

In the code of laws for the colony passed under the Duke of York, immediately after the conquest, the statute of Charles II. is re-enacted, although this was not necessary, as the common and statute law of England was the law of the colony until repealed. In this code of law it is also expressly stated that all fines upon alienation should be null and void. In the session of the Colonial General Assembly of 1691, the first after the revolution of William and Mary, the General Assembly passed a bill of rights to be found in Bradford's edition of the Colonial Laws, p. 4, in which it is enacted, "That all lands within this province shall be esteemed and accounted lands of freehold, and inheritance *in free and common sockage* according to the tenure of East Greenwich, in their majesty's realm of England." By the same law it was enacted, "That all lands and heritages within this province and dependencies shall be free from all fines, *licences upon alienation*, and from all heriots, wardships, licences, premiers, seizens, year and day, waste, escheat and forfeiture upon the death of parents and masters, natural, unnatural, casual, or judicial, and that forever, cases of high treason only excepted." After our American Revolution it was enacted by the act of 20th Feb., 1787, concerning tenures, "That all charges incident to knight service—*all fines upon alienation* and tenures by knight services are abolished, and all estates of inheritance made *allodial*," thus destroying the last vestige of feudalism, as allodial estates under which all estates of inheritance in this state are now held, are pure and absolute fees, held by the owners absolutely and independently, and the Manors of Rensselaerwyck and Livingston *cannot be made exceptions*, as I have shown by the law as it has existed more than five hundred years.

The judiciary committee lay much stress upon a fact as stated by them, that the Manor of Rensselaerwyck was represented in the Colonial General Assembly from 1691 to 1775, a period of eighty-four years, and insist that this was a continued recognition by the government during that time, of the existence of the Manor, and the rights of the Patroon.

It may be said in the first place, that if a representation of the Manor by a delegate in General Assembly was proof of recognition by the colonial government, that it never having been represented under the American government, from the commencement of our revolutionary struggle

in 1775, until the present time, is equal proof that with us the Manor never had an existence; that if the representation under the colonial government was an acknowledgment on the part of that government, by parity of reason it having had no representation with us is a repudiation on the part of our government. But I insist that there has been no acknowledgment, or repudiation of the Manor by either government as such, on the ground of representation. True it is, that the Manor of Rensselaerwyck, so termed, was for a long series of years represented in the general assembly, but equally true is it, that it was not represented on account of any title in Van Rensselaer, but because of an express act of the general assembly, passed in 1691, to be found in Bradford's edition of the Colonial Laws, p. 2. The committee would have us infer that the right of the inhabitants of the Manor to be thus represented, existed from the patent, whereas, on the contrary, the legislature conferred this right in express terms, and the representatives were sent, not because of the patent but because of the law, and this law was not founded upon the patent, for it makes no mention of it, and speaks of the Manor of Rensselaerwyck as a *political division* and *election district* of the country. This explains at once the whole mystery. At this time, the only inhabited portion of the state north and west of Albany, with the exception of a few remote and scattered settlements, was in the immediate vicinity of the city. This settlement about Albany, was known in common parlance as the Manor of Rensselaerwyck, and the legislature adopted the name upon the same principle that induced them to call many other places and districts from Indian names, and from other adventitious and accidental circumstances. That I am right in this conjecture will be evident from the fact, that the district of country known as the county of Albany and the district of country known as the Manor of Rensselaerwyck, both of which were entitled to send a member to the general assembly, were repeatedly altered in boundaries and extent by several legislative enactments, and this without regard to any patent or charter whatever.

Albany county, at one time, included most of the state, and by the act of March 12th, 1772, was divided into the three counties of Albany, Tryon, and Charlotte. Some idea may be formed of the extent of the county of Albany after this division from the districts into which it was divided by the act of 24th March, the same year. These were city of Albany, Manor of Livingston; Kinderhook, Kings, Manor of Rensselaerwyck; Schaticoke, Hoosic, Cambridge, Schenectady, United District of Duanesburgh and Schoharie, Cocksakie, and Great Inbold Districts. It will be perceived that the Manors of Rensselaerwyck and Livingston are mentioned in this division, and now I wish to call attention to the significant fact, that by this act it is expressly provided, that *these political divisions shall not establish the right of any patentee.*

By the act of April 4th, 1786, Columbia county was taken from Albany county, and Rensselaer county was taken from Albany by the act of Feb. 7, 1791. To show that no regard was paid by the legislature to the patent boundaries of the Manors, I would state that by the act of March 12th, 1772, part of the Manor of Livingston, so called, was annexed to Albany county. In 1769, Claverack was part of the Manor of Rensselaerwyck, and afterwards taken from it. (*Van Schaick's Colonial Laws, p.* 549.) In 1770, that part of the *city* of Albany, now known as the *Colonie*, was described as part of the Manor. (*Van Schaick's Edition of the Laws, p.* 568.) The district of the Manor of Rensselaerwyck, being deemed too extensive, was, by the act of March, 1796, divided into two, the east and west districts. Again, the eastern district of the Manor of Rensselaerwyck was, by the act of March 29th, 1784, divided into the Rensselaerwyck and Stephentown districts. I think the reader must be satisfied by this time, that Rensselaerwyck and Manor of Rensselaerwyck were used by the legislature as conventional terms, and neither expressed or indicated any right or title to the Manor, or territory described by that name.

But, say the committee, the question was directly raised and passed upon in the Legislature of 1769—"That on motion of Mr. Noyells, of

Orange county, a question came up in the Assembly, on the right of Mr Ten Broeck, who claimed to represent the Manor, and resided in Albany city, to represent the same on account of his residence—that the question being put by ayes and nays, it was resolved that Mr. Ten Broeck has such a residence as entitles him to a seat. This case, when examined, proves altogether too much for the purposes of the committee. The proceedings referred to are to be found in the journals of the House of the 29th December, 1769, and not in November, as the committee state. By an act passed 8th May, 1769, all persons not actually residing in the district of country which he might be elected to represent in General Assembly, should be considered as disqualified from serving as a member. Mr. Ten Broeck resided in the city of Albany, and was elected to represent the Manor of Rensselaerwyck—the question that arose was, virtually, if the Manor, so called, was to be considered as part, or distinct from the city and county of Albany. It was decided that it belonged to the county of Albany, and that therefore Mr. Ten Broeck, although residing in the city, was entitled to a seat—in other words, if I understand it aright, that the Manor, so called, was not a Manor, but part of the county of Albany; and, in fact, the General Assembly but declared the law as it had been expressly declared long before by the act of 24th October, 1706, in which it is stated, "that the Manor aforesaid can by no reasonable construction be intended to be divided from the said county." In pursuance of these acts and decisions, the name of the Manor of Rensselaerwyck was gradually dropped, and, finally, in the constitution of 1777, was not mentioned at all in the apportionment of representatives, and has not been since.

The committee say that there are no less than seven acts of the colonial assembly, all recognizing the distinct and separate existence of the Manor. I have examined all these acts, and have no hesitation in stating that every one of them contain provisions and enactments utterly inconsistent with Manor rights, and a Manor title in the Van Rensselaers. They speak of the Manor only as an election district, or political division of the country, and confer rights and privileges upon the inhabitants in entire derogation of the rights claimed by the Van Rensselaers as *sovereigns*, *lords* and *masters*. There is one case however in regard to which the committee with great exultation venture to enter into particulars, and this requires our more particular notice. It seems that there was a dispute between Massachusetts and New Hampshire colonies and the colony of New York in regard to the eastern boundaries of New York. This State claimed the Connecticut as its eastern boundary, and New Hampshire and Massachusetts claimed as their western boundaries the Hudson River. In the session of the General Assembly of 1773, a committee was appointed of which Mr. Bush was chairman, to report upon these conflicting claims. Of course the committee would attempt to make clear and manifest the superior claim of New York from the Hudson to the Connecticut, and hence in their very long, able and elaborate report make incidental and very brief mention of the Manor of Rensselaerwyck, east of the Hudson as part of the disputed territory and claim that this territory had been ceded to Van Rensselaer. This report was accepted as a whole, but it was far from the intention of the Legislature to endorse all that was stated in it, and is no more legal evidence of Van Rensselaer's title than is the subsequent report made by the honorable the judiciary committee to the Assembly in 1844. But there is one fact mentioned in this report which the judiciary committee overlooked, and that is that Governor Wentworth of New Hampshire on behalf of New Hampshire in an address to the crown in 1750, in regard to the question of boundary, stated that Mr. Van Rensselaer had not seen fit to contest with Massachusetts Bay, for *any land* east of the Hudson River. The dispute in relation to boundaries between this State and New Hampshire and Massachusetts was submitted to Congress for arbitration by the act of 21st October, 1779, and finally adjusted upon principles entirely irrelevant and independent of the Patroon's claim, and the boundaries fixed according to their present limits, by which the claim of Massachusetts and New Hampshire to the Hudson, and of New York to the Connecticut were both set aside as being equally founded in error. A strip of land twelve miles in length and four in breadth has actually been taken from the Manor and set off to Massachusetts, and the Yankees laugh to scorn Van Rensselaers' pretended claim.

There is an act of the colonial Legislature passed May 12th, 1699, which the committee represent as a general law annulling improper grants and naming them, and argue that as Van Rensselaer's Dongan patent was not named in this act it was equivalent to a confirmation on the part of the Legislature. On looking at the act I was surprised and pained to find it of an entirely different character from that as represented by the committee. The following is the title:—"An act for the breaking, vacating and annulling several extravagant grants of lands made by Governor Fletcher, late governor of this Province under his Majesty." It seems that Governor Fletcher had made several extravagant and outrageous grants of land to his favorites, and this Legislature felt bound to interfere for the protection of the public domain—they confined themselves to his patents one of which was for seventy miles in length by twenty in breadth; another 50 by 12, and others equally extravagant, and they were annulled expressly on the ground of their extravagance. It is conceded by the Legislature that the governor had complied with all the requisitions of the law in granting these patents, and that he had not exceeded his powers, but abused them, and they, the Legislature, claimed and exercised the right to reverse and annul the patents on the ground of their extravagance. I argue that the Dongan patent was not claimed at that time, or considered as valid in other respects, else it would have met the same fate as the Fletcher patents, and for precisely the same reasons.

For the purpose of showing what was the opinion of the Van Rensselaers themselves as late as 1775, in relation to their having an unquestionable title to the Manor, I would call the particular attention of the reader to certain articles of arbitration between the representatives of the Van Rensselaer estate and certain claimants under a patent said to have been granted to John Hendrick Van Baal, in 1772. The lands of this Van Baal patent are situated mostly in the town of Guilderland and lie in the very heart of the Manor, as described in the Dongan and Queen Anne grants. The lessees of Van Baal disputed the claim of Van Rensselaer, and a law suit was the consequence. But it did not suit the purposes of these parties to have their respective titles examined in a court of justice, and hence they entered into an agreement to submit their respective claims to arbitration, and to prevent impertinent curiosity were exceedingly careful to bind each other not to dispute each other's paper title, but rest the whole question of dispute between them, upon *priority of possession*, and being aware that possession alone could not give either of them a valid claim as against others, bound themselves that they would jointly apply to the Legislature for an act to confirm the title of the party found by the arbitrators to have been first in possession, and to the king to grant a patent for the same. At that time there being no general law of the colony authorising submission to arbitration, they applied to the Legislature for a law authorising this arbitration, and the Legislature passed an act accordingly, April 1st, 1775, in which this agreement to arbitration is set forth in *hæc verbæ*, but the Legislature observing that from the agreement itself neither party had got a title from the Legislature or the king, inserted a provision in the act, *expressly reserving the right of others and of the State.*

At this time the clash of resounding arms was already heard, and the glorious war of the revolution had commenced. This the last act of the Van Rensselaers under the British government in relation to the Manor, was an acknowledgment that their title needed confirmation by an act of the general assembly, and a patent from the king, and the last act of the colonial assembly in relation to the Manor was a solemn enactment that the right of others to this tract of land, and the rights of the king and government should be maintained inviolate. I have followed the Van Rensselaer claim from the earliest period of authentic history down the tide of time, until the year 1775, and it now remains to vindicate the insulted laws and institutions of our own state and government, and *prove* that a feudal system which could not be imposed upon a free, intelligent and patriotic people under British rule, was not imposed upon them by our own glorious laws and institutions, and to this joyful task I shall next betake myself with the proud spirit of an American freeman.

NUMBER V.

It has become very fashionable for many persons, when speaking of the Van Rensselaer claim to the Manor, to concede that he has derived title from possession, and that should his paper title fail he can hold the lands by

possession. Even the honorable the judiciary committee, learned in the law, have fallen into this popular delusion and error, and claim for the Van Rensselaers title from possession. Far be it from me to decry the importance of a possessory title, when fairly and legally acquired. I consider that such a title challenges the respect and support of every well-meaning man, and I hasten to meet this interesting and important question, and bestow upon it that attention which its importance deserves.

By chapter iv. title ii article 1, section 5, of the Revised Statutes, concerning the limitations of actions, it is enacted, "That no action for the recovery of any lands, tenements, or hereditaments, or for the recovery of the possession thereof, shall be maintained, unless it appear that the plaintiff, his ancestor, predecessor, or grantor, was seized, or possessed of the premises in question within twenty years before the commencement of such action." The above provision embodies the law as it has existed for many years, and may be considered as declaratory of all the law in relation to adverse possession. In regard to this law I remark, 1: That to acquire a possessory title, the claimant, or his grantor, or predecessor, must have been in actual possession of the premises claimed for more than twenty years. The possession of a grantee, or lessee, is no part of this possession, and cannot enure to the benfit of the grantee, or lessor, although the previous possession of the grantor, or lessor, may enure to the benefit of the grantee, or lessee, in possession. If A should possess lands adversely for twenty years, he therefore acquires a title which he may dispose of by deed, or devise, and may transfer his possession to another, but should he possess lands but ten years, and then give a deed, or lease to B, and B should occupy the land ten years, B will have acquired a title by adverse possession, for he and his grantor, or lessor, will have occupied the land for twenty years, but A will have acquired no possessory title whatever. It is evident from the phraseology of the statute, that the whole doctrine of adverse possession is to protect the possession of the last occupant, and not of his predecessor, unless his predecessor had acquired a complete title by possession before the last occupant became possessed of the premises. Suppose there was no law forbidding the tenant to dispute the title of his landlord, and Van Rensselaer should bring an action of ejectment against one of his tenants, and upon the trial fail to show a paper title in himself, could he recover from adverse possession when *he* was never in actual possession in his life, and the law does not make the possession of his grantee, or lessee, as tantamount to an actual possession in himself. This is too plain to admit of cavil, or dispute, and it must be conceded by every one who will examine this subject, that if the legislature should pass a law allowing the tenants to contest Van Rensselaer's title, that *he* could not recover on the ground of possession. It is different, however, with the tenants—*they* having been in actual possession for more than twenty years, could maintain that possession if Van Rensselaer was out of the way, as against the whole world.

To constitute adverse possession, it is necessary, 1st. That it be commenced under color and claim of title. 2d. That it be hostile in its inception. 3d. That it be marked by definite boundaries. 4th. That there be an actual occupancy, positive, notorious, uninterrupted and continued for twenty years. It is a general rule that an adverse possession will be negatived. 1st. When the parties claim under the same title. 2d. When the possession of one party is consistent with the title of the other. 3d. When the party claiming title has never in contemplation of law been out of possession. and 4th. When the possessor has acknowledged title in the claimant. (*Till. Ad. on Ejectments*, 43.)

It certainly cannot be necessary to multiply words to show that the Van Rensselaers have never been in actual possession of the lands occupied by their tenants; but to make it perfectly plain, we will give the legal definitions of actual possession. 1st. "For the purpose of constituting an adverse possession by a person claiming a title founded upon some written instrument, or some judgment or decree, land shall be deemed to have been possessed and occupied in the following cases; 1st. Where it has been usually cultivated or improved. 2. Where it has been protected by a substantial enclosure. 3. When although not enclosed it has been used for the supply of fuel, or of fencing timber, for the purposes of husbandry, for the ordinary use of the occupant. 4th. When a known farm, or single lot, has been partly improved, the portion of such farm, or lot, that may have been left not cleared or not enclosed, according to the usual course and custom of the adjoining coun-

try, shall be deemed to have been possessed and occupied for the same length of time as the part improved and cultivated." (2 *R. S.*, 294, *Sec.* 9–10.) "For the purpose of constituting an adverse possession by a person claiming title not founded upon some written instrument, or some judgment or decree, land shall be deemed to have been possessed and occupied in the following cases: 1st. Where it has been protected by a substantial enclosure. 2d. Where it has been usually cultivated or improved." (2 *R. S.* 294, *Sec.* 11–12.) "The payment of taxes and the execution of partition deeds, is not evidence of an actual possession, though it may show a claim of title." (3 *Johnson's Reports*, 388.) Under no pretence, then, can it be maintained, that the Van Rensselaers were ever in such actual possession of the Manor as to constitute adverse possession.

But for the purposes of the argument, I am willing to admit that from the earliest period until the year 1778, the Van Rensselaers were in actual possession of the Manor, then, I say, that until that year adverse possession could not be set up as against the state. "Adverse possession cannot be sustained against the state, unless the state has expressly restricted its own right by statute." (*Til. Bal. on Lim. p.* 427.) The state did not see fit to make the doctrine of adverse possession apply as to them, until by the act of 26th February, 1778, sec. 1, it was enacted, "That no suit shall be brought by the people of this state for lands, but within forty years after their title shall have accrued." This act was re enacted by the act of 8th April, 1801. By the Revised Statutes, chapter iv., title ii., article i., section 1, it is enacted "That the people of this state will not sue or implead any person for, or in respect to any lands, tenements, or hereditaments, or for the issues, or profits thereof, by reason of any right or title of the said people to the same, unless such right or title shall have accrued within twenty years before any suit or other proceeding for the same shall be commenced." We will suppose, now, that the title of the Van Rensselaers to the Manor should fail, and that the state should seek to recover possession of these lands, proceedings could certainly not be commenced against the Van Rensselaers, for they are not in possession, and ten thousand judgments against them would not remove the tenants: but suppose the state should be so far forgetful of its duty to the public—to the *people*—as to commence ejectment suits against the tenants, then the tenants could reply in the language of the statute, that not having commenced your suits within twenty years after your title accrued, or after we came into possession, *you are forever barred.*

If I have succeeded then in showing that the Van Rensselaers have no title from possession, their case is hopeless unless it can be made to appear that from some constitutional provision, or legislative enactment, or some judicial judgment, or decree of a court of law or quity in this State, a title in them has been created, acknowledged, recognized or confirmed.

In the first constitution of this State adopted in 1777, there are to be found the following provisions—"And this Convention doth further, in the name and by the authority of the good people of this State, ordain, determine and declare that such parts of the common law of England and Great Britain, and of the acts of the Legislature of the colony of New York, as together did form the law of the said colony, on the nineteenth day of April, in the year of our Lord one thousand seven hundred and seventy-five, shall be and continue the law of this State, subject to such alterations and provisions as the Legislature of this State shall from time to time make concerning the same. That such of the said acts as are temporary shall expire at the times limited for their duration respectively. That all such parts of the said common law, and all such of the said statutes and acts aforesaid, or parts thereof as may be construed to establish or maintain any particular denomination of Christians, or their ministers, or concern the allegiance heretofore yielded to, and the supremacy, sovereignty, government or prerogatives claimed or exercised by the king of Great Britain and his predecessors over the colony of New York, and its inhabitants, or are repugnant to this constitution, be, and they are hereby abrogated and rejected. And be it further ordained, that all grants of land made by the king, or, of persons acting under his authority, after the fourteenth day of October, one thousand seven hundred and seventy four, shall be null and void. But, that nothing in this constitution contained, shall be construed to affect any grants of land within this State, made by authority of the said king, or his predecessors, to annul any charter to bodies politic, by him or them, or any of them made prior to that day."

The same provisions are substantially contained in the constitution of 1821.

Now there is certainly nothing in these constitutions which confirm the claim of the Van Rensselaers unless by the laws of England as they existed in 1775, he was entitled to the Manor. If I have shown in the preceding numbers, that he has no valid English title, then he has no American title. In the third number I attempted to show that the pretended patent of Queen Anne was never granted or executed, and in the fourth number, that this patent, if genuine, was contrary to the laws of England existing at the time and ever since. I spoke of the nature of the estate granted by the patent, that it was feudal and in violation of law, and that no grant could be valid that gave the grantee power to carve out of it any other estate than that of free and common socage; and traced the English law upon the subject until the time of our revolution. It now remains that I follow up the law unto the present time. By the act of the 20th of February, 1787, concerning tenures, section 1, declares that every freeholder of an estate of inheritance may alien or sell at pleasure. The leases given by Van Rensselaer declare that the tenants shall not be allowed to alien without the consent of the Patroon. Sec. 2, takes away all the feudal features of estates of inheritance, amongst which are expressly mentioned fines for alienation or quarter-sales and all base services. The leases from Van Rensselaer retain most of these feudal features amongst which are expressly mentioned a fine of one quarter of the purchase money for every sale, and also day's labor with a team, bringing fat fowls, &c. &c. Sec. 3 declares that all tenures of land thereafter to be granted should be *allodial;* the Patroon since this time has created hundreds of estates in pure villeinage and villein socage. The act of 1787 is contained in the revised laws of 1813, and its provisions embodied also in the last Revised Statutes, 1 vol. p. 718.

Not finding any law in the constitutions or statutes of the State to confirm the Van Rensselaer claim, I waded through all the reports of all the adjudicated cases in the State with as little success, for I could not find *one case* in which their title has been passed upon, but I found three cases in which it was disputed. 1st. As early as 1675, under the British government, it was disputed by Nicholas Van Rensselaer, a Dutch clergyman. (*See Smith's history of New York, 2 vol. p.* 49.) Nicholas afterwards went to Holland before the dispute was settled. 2d. In 1703 it was disputed by B P. Coeymans (See No. 3,) and this dispute was adjusted by releasing to Mr. Coeymans a large portion of the best lands in the Manor. 3d. In 1775 it was disputed by the assigns of Van Baal, (see No. 4,) and this dispute was finally adjusted by arbitration, by which another very large portion of the Manor was taken from the Van Rensselaers. There are other cases no doubt in which the title was contested, but as these cases were all settled before trial, no records are preserved that I can find.

But the judiciary committee come up gallantly to the help of the Van Rensselaers and announce very gravely that they must have a title because they have paid the comptroller a few hundred dollars quit rent, for lands from which they were receiving millions. That because the comptroller did not inquire into the title and received the Patroon's money, not knowing whether he was bound to pay it or not, therefore the State and its citizens are precluded from questioning the title, and the *comptroller* has settled the whole matter. Really I cannot give a serious refutation to this argument for it is beyond my powers; but this I will say, that as no quit-rent has been paid of late years, and as the comptroller has no power to commute, the Van Rensselaers have beyond all doubt become *anti-renters*, and I respectfully suggest that the military should be called out on this momentous occasion, and all the Van Rensselaers in Christendom be declared in a state of insurrection.

NUMBER VI.

If it be true that the Van Rensselaers have no valid title to the lands of the Manor, the inquiry at once suggests itself to every mind what is to be done? and what are the rights and duties of the tenants in relation to such a singular state of things? I answer:

1st. This fact does not render less meritorious or important the great principles of jurisprudence and government for which the tenants have been and still are contending, in regard to the powers of the Legislature in altering the tenure of lands, and relieving the people from onerous and oppressive laws. Such has been the zeal manifested by opponents of the anti-rent cause, so called, that the constitution itself has been perverted, and made to

utter a language never intended by its framers ; and sanctioned doctrines and opinions subversive of all true liberty, and as devoid of common sense as of correct legal construction. Our enemies will have it, that the tenants are not only enslaved but must needs always remain so, and that our noble and patriotic ancestors have absolutely made feudal servitude interminable, and fastened it upon us and our posterity until the end of time. They will have it, that the Legislature have no power to reform acknowledged abuses, repeal bad laws, *legislate for the people*—but that the whole business, end and aim of government is to collect rents for a few purse-proud and aristocratic landlords—to pass for them partial and invidious laws, giving them special privileges that cannot be granted to farmers and mechanics, and to enforce those laws at all hazards—to do every thing for property, but nothing for man—to protect the rich but neglect the poor—promote the interests of the few at the expense of the best interests of the many.

The Helderburgh, the third senatorial district, is but the theatre of warfare; the interests at stake are not confined to time or place. We can trace in the light of history as with the effulgence of noonday, the ruin of every republic of the ancient world to the detestable principles and practices of land monopoly and serfdom of the soil. The innumerable evils that now afflict the nations of Europe are all atributable principally, if not solely to this unmitigated curse. A curse from which no nation ever yet permanently, or effectually freed itself by agrarian laws, or the forcible division of landed property. A curse which on account of the vast extent of our territory, the sparseness of our population, the infancy of our existence and the wise and salutary laws against primogeniture and restraints upon alienation has not yet overtaken us as with the besom of destruction, leaving no hope but in the evils of agrarianism, or the horrors of revolution—but which is nevertheless stealing upon us as a thief in the night, and in a thousand insidious ways sapping the foundations of our glorious fabric, corrupting public sentiment and preparing for itself empire in this land of the free and home of the brave. The tenants seek to prevent monopolising *aggression* by the repeal of partial and unequal laws, and destroy the monopolising *spirit* and *vitality*, by the irresistible influence of public opinion. These are high and glorious objects entertained by the tenants, irrespective of the question of title, and I have dwelled thus much upon this broad and expansive view to relieve the tediousness of a mere technical discussion, and to caution my readers that title is an important, but not the only question.

2.I We should obey implicitly the law of the land, and preserve perfect peace and order. It is the just pride and boast of the American people, that while our laws are already more perfect than those of any other nation, the theory of our government is such that all abuses can be reformed, defects or omissions remedied, and every desirable alteration or improvement made by the free voice of the people—and I trust that it will ever be remembered that freedom of speech, liberty of the press, and the ballot will never fail us in the hour of need. That as long as these rights are secured to us, no true patriot will seek or desire other weapons. Every law upon our statute book of which we complain, was placed there by the consent of the people—was placed there by the people, and for the time being is the expression of *their* will; and in submitting to the people,we but submit to selfgovernment, for we are of the people, and when the proper time has arrived and public opinion has become changed in regard to these laws, the power that created will destroy, and we will do our own work in the way that we have ourselves prescribed, by the government of our own choice. Anarchy is even more to be dreaded that despotism—it is of itself the worst of despotisms, and true republicanism is as far removed from the one as from the other, and those who would involve our country in scenes of violence and outrage, are preparing for themselves and for us, far greater evils than any we have yet been called upon to endure. At the same time we cannot be too jealous, or watchful of our rights, and should resist manfully, and with spirit and determination any, even the slightest aggression, but resist in a way that God and our conscience and the laws will approve.

3d. We should insist upon the repeal of the following law as it now exists. "A person who has entered into possession of lands under another, and acknowledged his title, cannot set up an outstanding title in a third person."—(6 *Johnson's Reports*, 34.) "If the defendant has recognized the lessor as his landlord, he cannot afterwards dispute his title."—(1 *Chancery Reports*, 444.) The repeal of this law is of fundamental importance to the tenants,

and absolutely necessary to the maintenance of their rights and the enforcement of justice. *If* the tenants have been for a long series of years deceived and humbugged, defrauded and oppressed by a claim of title that was never valid in law, by what principle of justice, or of equity, by what rule of ethics shall the Van Rensselaers be still allowed *to take advantage of their own wrong?* If the Van Rensselaers are themselves deceived in this matter, and suppose that they have title when in fact they have none, is that any reason why the truth should be longer concealed? When the title of Gerrit Smith of Madison county, to certain lands he had inherited from his father, was questioned by the tenants, he sent for them and generously and with the true spirit of an honest man, offered to submit his title to the most rigid scrutiny, and pledged his word that should it be found against him, that the tenants should not only hold their farms independent of him, but that he would in addition refund them every cent of money that they, or their fathers before them had paid to Mr. Smith, or his father, on account of these lands. There is not an honest and ingenuous mind that does not at once approve of this course on the part of Mr. Smith as dictated alike by reason and justice. In the preceding number I have shown what would be the legal effect in case the Van Rensselaer title could be disputed by the tenants, and it should prove to be defective. That in such case the lands would not escheat to the State, but vest in the tenants from possession, and when we consider that the tenants and not the Van Rensselaers have been in actual possession of these lands—that *they* rescued them from the wilderness and by hand labor have thrice *earned* their possessions—that they have paid for them over and over again by exorbitant rents and the payment of taxes that the patroons should have paid, it will be conceded that the tenants ask for nothing that is wrong and should not be granted them when they ask for these lands if owned by no one else.

4th. The law in relation to trespass upon lands, gives the tenants power to test even now the title to the Manor, and they should unite as one man in availing themselves of this law in such a way as to do no violence to the laws of morality, and for the sole and single purpose of determining this much disputed question. Any person who trespasses upon the lands of another, is liable to a civil action of trespass, and the jury in such case may give exemplary damages against the wrong doer. If the trespass be wilful and intentional, and injury be done to the freehold, the offender is also amenable to the laws of the land as for a criminal offence, and can be indicted, tried, convicted and punished for malicious trespass, which is a misdemeanor both at common law and by statute. In such cases, however, the defendant, or accused, is not precluded from disputing the right of property, unless the lands were in the *actual* possession of another, in which case ownership need not be proved, for it is presumed from possession, and cannot be controverted by a person who has no title in himself. In the preceding number, I have shown what is necessary to constitute actual possession. If the lands upon which the trespass was committed, be wild, unenclosed, and vacant, positive ownership must be proved as laid in the declaration, or indictment before the suit, or indictment can be sustained. "Trespass on lands can only be maintained by a person having actual and lawful possession."—(9 *John.* 61.) Or, in case the premises are vacant by one who has the legal title which draws to it the possession—(12 *John.* 183)—in which case, however, *the plaintiff must show his title,* and thus make out constructive possession. (12 *John.* 183.) If, then, there be any wild and unenclosed lands in the Manor, *in the possession of no one,* any person who goes upon them and does injury to the freehold, can escape with impunity until the ownership of the lands be proved. Such lands, however, belong either to Van Rensselaer, or to some one claiming under him, or to the State, and no person who has not title in himself, can with a clean conscience, under ordinary circumstances, trespass upon these lands. Still, one trespass upon such lands, if trifling in itself, and with an offer of indemnity to the owner, whoever he may be, and committed for the purpose of bringing up the question of title, and if that question be of public interest and concernment, cannot be condemned by the most rigid morality, notwithstanding it be a palpable and open violation of the laws of the land. The person committing such a trespass, however, must do it in a spirit of self-sacrifice, for his motives and the reasons of the act cannot be understood by the vast majority of his fellow-citizens, and from *association of ideas* he will at once be classed with criminals, and those who regard not the rights of property. At the same time he must be a

man of at least ordinary integrity and decision of character, and possessed of a medium share of intelligence, or he will not be able to withstand the persecution which he is sure to meet, the abuse to which he will necessarily be subjected ; the art, the skill, the learning, and the talent with which he will be assailed for the purpose of crushing him, or driving him from his position with shame and disgrace. I considered all these things and *counted the cost*, and in opposition to the tears, remonstrances and entreaties of those I love best, amidst a flood of imprecation and obloquy from those I despise, I went myself, not caring to entrust so important a business to the keeping of others who would have saved me the woodman's labor, and upon wild and uncultivated land on the Manor, in the town of Watervleit, claimed by the Patroon, and in the presence of a witness, cut down with vast labor and exertion, and in a peculiar manner, a tree, a very small tree, and as it came tumbling to the ground, methought I heard the crash of patroonery, and the fall of feudalism. *Tenants, it is your act,* for it was done with the knowledge and consent of some of your principal and chosen men, with whom I had previously consulted, and you owe it to yourselves, to the cause you advocate, and to me, that I suffer no detriment for this, and I have never doubted for a moment but that I shall be nobly and triumphantly sustained. I immediately addressed a note to Van Rensselaer, in courteous language, detailing the full particulars of the transaction, and conjuring him, if he had a title, to avail himself of this opportunity to make it apparent and satisfy the public mind in regard to it—that I should be in attendance the next day at the Police office, with the witness, by whom the fact could be proved, *prepared to contest his title*—that a neglect to prosecute on his part would be considered by thousands as a tacit confession that his claim is not valid, and that I should publish the proceedings to the world. He did not make his appearance as I had appointed, and although a Grand Jury has since been in session, has not seen fit to commence a prosecution.

A jury of my country must and shall pass upon this trespass. If I have offended, public justice requires that I should be punished. If I have done no wrong to Stephen Van Rensselaer, Jr., I should be honorably acquitted of that charge. In regard to the State, I feel guilty and criminal, and if the payment of twenty-five dollars, the penalty affixed for cutting down one tree upon the State lands, would be received by the treasurer, it shall be immediately paid, and I will promise in addition never to offend in like manner again, and perhaps would not have done so this time if it had not been for the lax manner with which this property has been heretofore protected and kept.

Any person can prefer a complaint, and the attendance of the Patroon upon the trial, with his title deeds, and the State Comptroller with all necessary documents enforced by attachment, if necessary; hence, a trial must be had and the title investigated. And I submit it to the enlightened judgment and good sense of mankind, if all proceedings against the tenants, for the collection of rents should not be suspended in the mean time; if proof of title should not be first in the order of time.

Every tenant, who has a personal interest in this matter, should at once contribute towards defraying the necessary expenses of such a trial, and the subsequent proceedings. The best and most eminent counsel in the State should be retained, and nothing left undone to secure for the tenants a final and complete triumph even to the court of dernier resort. A trial that will test the title is infinitely more important than anything else that can be done at this time, and the incipient steps should not be delayed another day. Money enough has been wasted in defending suits in which title could not be brought in question. You cannot, as good citizens, multiply acts of trespass, or wantonly destroy property, and *one* suit is sufficient for all your purposes.

In raising the necessary funds for this and other purposes, I would suggest with diffidence, that every town in the Manor give a public ball, or festival, so as to combine pleasure with business, delight with profit. That the treasurers of the different town associations should act as a finance committee, through whose hands all moneys must pass. That the young should immediately bestir themselves, and the old lend their smiles of approval, and that all should go merry as a village bell, while nothing is seen but order and decorum, the wisdom and spirit of an intelligent and Christian community.

Farewell, kind and patient reader, until we meet again face to face!

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